

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

ASSOCIATED MANAGEMENT
SERVICES, INC.,

Plaintiff,

v.

CAPSTAN HEALTHCARE, LLC, d/b/a
CAPSTAN RX, SYED HAROON ZULFIQAR,
d/b/a CAPSTAN RX, and NORTH G RX, LLC,
d/b/a CAPSTAN RX,

Defendants.

No. _____

JURY TRIAL DEMANDED

NORTH G RX, LLC'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant North G RX, LLC ("North G") hereby gives notice and removes this case to the United States District Court for the Eastern District of Missouri. North G represents the following in accordance with the requirement of 28 U.S.C. § 1446(a) for a "short and plain statement of the grounds for removal":

BACKGROUND AND PROCEDURAL REQUIREMENTS

North G is one of three defendants in a putative class action claiming violations of the Telephone Consumer Protection Act ("TCPA"), as amended by the Junk Fax Prevention Act of 2005,¹ by way of the Amended Class Action Junk-Fax Petition ("Petition") filed in the Eleventh Judicial Circuit County of St. Charles, Missouri (the "State Court Action"). North G accepted service of the Petition on May 29, 2019. A copy of the Petition is attached hereto as Exhibit A. Prior to being served with the Petition, North G had not been served with any pleadings or papers that would

¹ 47 U.S.C. § 227, *et seq.*

give right to a basis for removal to this Court.

This Notice of Removal is timely filed, as it is being filed within thirty days after service of a summons and the Petition upon North G as required by 28 U.S.C. § 1446(b).

As required by 28 U.S.C. § 1446(a), a copy of all records and proceedings from the Circuit Court of St. Charles County, Missouri, is attached hereto. The Amended Petition is attached hereto as **Exhibit A**. The Original Filing Form and Civil Cover Sheet are attached hereto as **Exhibit B** and **Exhibit C**, respectively. The remainder of the state court file is attached hereto as **Exhibit D** and includes the following: Plaintiff's Petition; Summons issued for Syed Haroon Zulfiqar; Plaintiff's Motion for Extension of Time; Court's Order Granted Plaintiff's Motion for Extension of Time; Return of Service on Syed Haroon Zulfiqar; Return of Service on Capstan Healthcare, LLC; Acknowledgement of Receipt of Summons and Petition by Syed Haroon Zulfiqar for Capstan Healthcare LLC d/b/a Capstan RX; Plaintiff's Acknowledgement of Receipt of Summons and Petition by Syed Haroon Zulfiqar individually; Entry of Appearance of Michael B. Hunter on behalf of all Defendants; Defendants' Answer; Certificate of Service of Plaintiff's Requests for Production of Documents and Interrogatories to Defendants; Plaintiff's Motion for Leave to File an Amended Petition; Plaintiff's Notice of Hearing; Defendants' Certificate of Service of Responses to Plaintiff's Written Discovery; Court's Order Granting Plaintiff's Motion for Leave to File An Amended Petition; and the Summons issued for North G RX, LLC.

In accordance with 28 U.S.C. § 1446(d), Defendants have filed written notice of this removal with the Clerk of the Circuit Court of St. Charles County, Missouri, where the State Court Action is pending. A copy of this Notice of Removal and the written notice of the same also are being served upon Plaintiff.

REMOVAL GROUNDS

Any civil action is removable if the plaintiff could have originally brought the action in federal court. *See* 28 U.S.C. § 1441(a). Plaintiff could have brought their TCPA putative class action in this federal court. Under 28 U.S.C. § 1331 this Court has original federal question jurisdiction over Plaintiff's TCPA claims. Accordingly, pursuant to 28 U.S.C. § 1441(a), North G has the right to remove the State Court Action to this Court, without regard to the citizenship or residency of the parties or the amount in controversy. *See Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 372 (2012); *see also* 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."); *see also Charvat v. Echostar Satellite, LLC*, 630 F.3d 459, 463 (6th Cir. 2010) (holding that "the district court had federal-question jurisdiction over the claims under the Telephone Act and pendent jurisdiction over the rest of the claims"); *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 451-52 (7th Cir. 2005) (same); *Heller v. HRB Tax Group*, Cause No. 4:11CV1121, 2012 WL 163842 (E.D.Mo. Jan. 19, 2012) (denying plaintiff's motion for remand of TCPA action based on the Supreme Court's decision in *Mims*); *Nack v. Walburg*, Case No. 4:10CV00478-AGF, 2011 WL 310249 at *4 n.2 (E.D. Mo. Jan. 28, 2011) (holding that it possessed federal-question jurisdiction over claims under the TCPA).

ALL DEFENDANTS CONSENT

All defendants are represented by the undersigned counsel, and all defendants consent to the removal of the State Court Action to this Court.

EFFECTUATION OF REMOVAL

North G thus hereby removes this action to the United States District Court for the Eastern District of Missouri. Venue is proper in this Court pursuant to 28 U.S.C. § 1446(a), as the United States District Court for the Eastern District of Texas, Missouri, is the district in which the State Court Action was pending.

WHEREFORE, North G hereby removes this action to the United States District Court for the Eastern District of Missouri.

Dated: June 26, 2019.

/s/ William Akins

William J. Akins (pro hac vice to be
filed)
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Respectfully submitted,

/s/ Michael B. Hunter

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of June 2019, the foregoing was filed electronically using the Court's CM/ECF system, and served electronically to the following counsel of record:

Ronald J. Eisenberg
Schultz & Associates LLP
640 Cepi Drive, Suite A
Chesterfield, MO 63005
Attorney for Plaintiff

I further certify that I signed or caused my electronic signature to be placed upon the original of the foregoing document.

/s/ William Akins